IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.226 of 2006
DATE OF DECISION: 30-01-2007

Deepak Talwar

.....Petitioner

VERSUS

Haryana State Agricultural Marketing Board

.....Respondent

CORAM:- HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.Madan Mohan, Advocate
for the petitioner.

Mr.SP Singh, Advocate
for the respondent.

ASHUTOSH MOHUNTA, J.(Oral)

The petitioner while working as Executive Engineer in the Haryana State Agriculture Marketing Board, Karnal was entrusted the current duty charge of the post of Superintending Engineer(Planning) in his own pay scale of Executive Engineer vide order dated 13-12-1990 (Annexure P9). Vide order Annexure P2, order dated 13-12-1990 was withdrawn. The petitioner has filed this writ petition claiming salary for the period 13-12-1990 to 28-7-1997 attached to the post of Superintending Engineer

It is contended by the learned counsel for the petitioner that the petitioner had performed the duties of Superintending Engineer, therefore, he should be paid the salary for the post of Superintending Engineer.

Reply has been filed on behalf of the respondent wherein

it has been averred that although order Annexure P2 was passed on 28-7-1997, the petitioner for the first time filed a representation against the withdrawal of the current duty charge on 12-3-2005. It has been submitted that as there was an inordinate delay in filing his representation against the withdrawal of the charge, hence, the petitioner is not entitled to any relief.

It has further been argued by the counsel for the respondent that vide Annexure P1, it was made clear to the petitioner that he has been entrusted the current duty charge for the post of Superintending Engineer (Planning) in his own pay scale of Executive Engineer and, therefore, now the petitioner having accepted terms of Annexure P1 cannot turn around and demand the pay for the post of Superintending Engineer.

In rebuttal, counsel for the petitioner states that as he had filed writ petition in the year 1997 itself claiming the same relief which was disposed of with a direction that the case already pending against the petitioner be disposed of first and hence there is no delay on the part of the petitioner.

We have considered the rival contentions of both the sides and find that perusal of order Annexure P1 clearly shows that the petitioner was entrusted with the current duty charge of Superintending Engineer in the pay scale of Executive Engineer. The petitioner having accepted the terms and conditions of order dated 13-12-1990 now cannot demand the salary for the post of Superintending Engineer.

In **State of Haryana** Vs. **RK Aggarwal** reported as 1997 (4) SLR 733, the Hon'ble Supreme Court has held that where a person is given the current duty charge of a higher post in his own pay scale then he would not be entitled to salary for the period he was holding the current duty charge as there has been no substantive promotion.

In view of the above, we find no merit in the present writ petition and the same is hereby dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

(R S MADAN)
JUDGE

January 30, 2007
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